

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

LPL Financial LLC

Hearing Site: Denver, Colorado

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ ("Claimant"): Dochter Kennedy, MBA, JD, AdvisorLaw, LLC, Broomfield, Colorado and Michael Bessette, Esq., HLBS Law, Westminster, Colorado.

For Respondent LPL Financial LLC ("Respondent"): Jon Kaplon, Esq., LPL Financial LLC, Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on: July 18, 2017.

Claimant signed the Submission Agreement: July 18, 2017.

Statement of Answer filed by Respondent on: December 4, 2017.

Respondent signed the Submission Agreement: September 6, 2017.

**CASE SUMMARY**

Claimant requested expungement of reference to an NASD Arbitration, occurrence number ██████████ ("Underlying Arbitration") from his Central Registration Depository ("CRD") record.

In the Statement of Answer, Respondent advised that while it does not oppose Claimant's request for expungement, it denies any wrongdoing and objects to Claimant's request for compensatory damages.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Expungement of the Underlying Arbitration from his CRD record pursuant to FINRA Rule 2080(b)(1)(A) as the claim, allegation or information is factually impossible or clearly erroneous;
2. Expungement of the Underlying Arbitration from his CRD record pursuant to FINRA Rule 2080(b)(1)(C) finding the claim, allegation or information is false;
3. An award of compensatory damages in the amount of \$1.00 from Respondent; and
4. Any and all other relief that the Arbitrator deems just and equitable.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges that he has read the pleadings and other materials filed by the parties.

On December 11, 2017, Claimant provided a copy of his notice to the customer in the Underlying Arbitration ("Customer") regarding the Statement of Claim.

On March 7, 2018, Claimant provided a copy of his notice to the Customer of the expungement hearing. On March 13, 2018, Claimant provided an Affidavit of Service signed by Claimant's counsel advising that the Customer had been served with the notice of the expungement hearing.

During the expungement hearing, Claimant withdrew the request for \$1.00 in compensatory damages.

The Arbitrator conducted a recorded telephonic hearing on September 12, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement. The Customer did not appear at the expungement hearing.

The parties present at the hearing have agreed that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for expungement of his CRD record is denied.
2. Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

#### **Filing Fees**

FINRA Office of Dispute Resolution assessed a filing fee\* for each claim:

Initial Claim Filing Fee = \$ 50.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 150.00

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

March 6, 2018, postponement by Claimant = Waived

**Last Minute Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

March 6, 2018, postponement requested by Claimant = Waived

**Hearing Session Fees and Assessments**

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$50.00/session	= \$ 100.00
Pre-hearing conference: November 27, 2017 1 session	
March 6, 2018 1 session	

One (1) Hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: September 12, 2018 1 session	

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Total Hearing Session Fees = \$ 150.00

The Arbitrator has assessed \$150.00 of the hearing session fees to Claimant.

All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.

**ARBITRATOR**

Jonathan B. Gilbert

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**

/s/ Jonathan B. Gilbert

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Jonathan B. Gilbert  
Sole Public Arbitrator

September 18, 2018

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Signature Date

September 19, 2018  
Date of Service (For FINRA Office of Dispute Resolution office use only)